

37.115-2 General policy.

(a) Use of uncompensated overtime is not encouraged.

(b) When professional or technical services are acquired on the basis of the number of hours to be provided, rather than on the task to be performed, the solicitation shall require *offerors* to identify uncompensated overtime hours and the uncompensated overtime rate for direct charge Fair Labor Standards Act-exempt personnel included in their proposals and subcontractor proposals. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

(c) *Contracting officers* must ensure that the use of uncompensated overtime in contracts to acquire services on the basis of the number of hours provided will not degrade the level of technical expertise required to fulfill the Government's requirements (see [15.305](#) for competitive negotiations and [15.404-1\(d\)](#) for cost realism analysis). When acquiring these services, *contracting officers* must conduct a risk assessment and evaluate, for award on that basis, any proposals received that reflect factors such as-

(1) Unrealistically low labor rates or other costs that may result in quality or service shortfalls; and

(2) Unbalanced distribution of uncompensated overtime among skill levels and its use in key technical positions.

(d) Whenever there is uncompensated overtime, the adjusted hourly rate (including uncompensated overtime) (see definition at [37.101](#)), rather than the hourly rate, shall be applied to all proposed hours, whether regular or overtime hours.

Parent topic: [37.115 Uncompensated overtime.](#)